

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JAMES CUNNINGHAM,

Petitioner,

Case No. 08-14283

HON. JOHN CORBETT O'MEARA

v.

MARY BERGHUIS,

Respondent,  
\_\_\_\_\_/

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the court is a report and recommendation to deny Petitioner's application for a writ of habeas corpus, filed July 19, 2010 by Magistrate Judge Paul J. Komives. Petitioner filed objections to the report and recommendation on August 16, 2010.

This Court "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. 28 U.S.C. § 636(b)(1)(C). The Court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." Id.

Having reviewed the record, it is hereby ORDERED that the report and recommendation is ADOPTED as the findings and conclusions of this court, and Petitioner's application for a writ of habeas corpus is DENIED.

It is further ORDERED that a certificate of appealability is DENIED.

s/John Corbett O'Meara

United States District Judge

Date: September 16, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, September 16, 2010, using the ECF system.

s/William Barkholz

Case Manager